

IOWA BenchPress



Newsletter of the Iowa Judicial Branch

November-December 2003

FY 2005 Budget Outlook Grim

Predictions for the state's FY 2005 budget, which begins July 1, 2004, are sobering. The state faces a budget shortfall of approximately \$300 million in FY 2005, and earlier this month there were signs of impending budget cuts. Governor Vilsack told state agencies there would be no new money to fund 2005 salary increases. In addition, in anticipation of more budget cuts some regents have suggested that the state's three universities institute more long-term cost saving measures.

"I see the next fiscal year as the worst ever in terms of the state's budget problems," Chief Justice Lavorato told judges gathered for the Judges Association meeting December 3. "The judicial branch has cut operating expenses dramatically, and we intend to continue searching for efficiencies and savings. But after three years of deep cuts the Judicial Branch has nothing more to give."

Since the beginning of fiscal year 2002, the Legislature has cut \$8.4 million from the courts' budget. These cuts have resulted in the lay-off of 117 court employees, and pay cuts for 146 court employees either through demotions or reduced hours. The court system also cut 20 vacant positions, and has been holding open more than 60 vacant positions at any given time. The judicial branch workforce has been reduced and equivalent of 221 FTEs or over 10%. In addition, the courts drastically cut travel, supplies, equipment replacements, and education programs.



"We're going to press hard for adequate funding for the courts," said State Court Administrator David Boyd. "We're at a critical point and further cuts would hurt our ability to fulfill our basic obligations to the public."

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Dedication of Drake's Opperman Center Draws Distinguished Guests

United States Supreme Court Justice Anthony Kennedy was among the crowd of distinguished visitors who celebrated the dedication of Drake's Opperman Center, the new headquarters of the American Judicature Society (AJS). The dedication was held on October 25 in the rotunda of the Iowa Judicial Branch Building.

As part of the event, AJS honored Dwight D. Opperman, former chairman and CEO of West Publishing Company, for his long-standing generosity, counsel, and support of AJS.

Following the ceremony, guests gathered in the atrium of the judicial building for a reception. Chief Justice Louis Lavorato and Justice Michael Streit escorted Justice Kennedy and Dwight Opperman through the new building.



Pictured from left to right: Kevin Collins, ISBA president; Chief Justice Louis Lavorato, Iowa Supreme Court; Associate Justice Anthony M. Kennedy, The Supreme Court of the United States; Dwight D. Opperman; and Allan Sobel, AJS Executive Vice-President and Director.

Founded in 1913, the American Judicature Society is an independent nonpartisan organization that works to maintain the independence and integrity of the courts and increase public understanding of the justice system.

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Experiencing the Spirit of Technology

by Leesa McNeil

This theme set the stage for the 8th National Court Technology Conference in Kansas City this last October. Over 1,400 participants from around the world (and five from Iowa: Larry Murphy, Judge Alan Pearson, Judge Brandt, Lodema Berkley and Leesa McNeil) attended many of the 32 educational sessions designed to explore new justice and communications standards that will serve as a model for the future as well as sessions to help courts improve their performance using existing technologies.

The Honorable Jean Hoefer Toal, Chief Justice of South Carolina, opened the conference with a keynote address on successful leadership for the 21st Century courts. Collaboration is the key to success—partnerships and commitment to all partner's success. Conference participants were reminded that it is not about technology—it is about business! Justice Toal challenged participants to change their culture to succeed. Paradigm shifts that will help programs succeed include: a change from a leadership style that issues mandates to one that works with partnerships to develop the most attractive plan, from reactive to proactive, from ivory tower decision-making to grass roots involvement, from no funding

for lower courts to numerous mechanisms of funding for all judicial and non-judicial personnel, from training acquired on your own to structured educational opportunities delivered in classes and individually, from courts isolating themselves to working with IT professionals, educators and business managers that have skills that will enhance judicial operations, and from focus on the “haves” to focus on the “have nots” by partnering with the “haves”.



Many sources of funding have con-

tributed to the success realized by South Carolina, including state appropriations, bond referendums, court fees and grants. Justice Toal believes technology in the courtroom is as much a fixture as the American flag. As she shared a picture of her first grandchild, Justice Toal was adamant that “e-mail and the web are as fundamental to modern life as running water and electricity.

One speaker at the conference shared an interesting finding made by the Center for Social Policy about the public's use of the internet—after buying books online, the most frequent use of the internet by individuals was

e-government. As we work to become a more service-orientated institution there are many opportunities for us to reach the public that we serve.

Space does not permit sharing information on all 32 sessions that were available. Conference presentations are viewable online at www.ctc8.net.

(Note—no general fund dollars were used to fund attendance at the conference.)



Milestones: Service Anniversaries

25 Years

Carolee Philpott, Judicial Clerk,
Franklin County.

Ruth Klotz, Associate Probate Judge,
Polk County.

Lynn Gordon, Court Reporter, *Black Hawk County.*

Connie Pecinovsky, Clerk of District Court, *Howard County.*

Karen Williams, Judicial Clerk, *Boone County.*

Catherine Burkholder, Judicial Clerk,
Johnson County.

Paul Thompson, Juvenile Court Officer,
Marshall County.

30 Years

Helen Beardmore, Juvenile Court Officer, *Winneshiek County.*

Shirley Doran, Juvenile Court Specialist, *Shelby County.*

Lorelei Reed, Judicial Clerk, *Dubuque County.*

Jerry Beatty, Exec. Director, Education and Planning, *Polk County.*



Don Carter, Court Reporter, 3rd Judicial District, has served the courts for forty years.



Shirley Doran, Juvenile Court Specialist, 4th Judicial District, recently observed thirty years of service.

New Faces

District 1: **Kathy Dailey**, *Dubuque*, Court Attendant; **Monica Ackley**, *Dubuque*, District Court Judge.

District 2: **Allison Zelik**, *Nevada*, Court Reporter.

District 3: **Jessica Fredregill**, *Storm Lake*, Court Reporter; **Tim Coughlin**, *Sioux City*, Juvenile Court Officer.

District 4: **Lois Lynn**, *Sidney*, **Robert McKone**, *Audubon*, Court Attendants.

District 6: **Julia Gomez Medillin**, *Iowa City*, **Patrick Kennedy**, *Iowa City*, Judicial Clerks.

District 7: **Tami Thurston**, *Davenport*, Juvenile Court Technician; **Gaylene Harrell**, *Davenport*, **Kris Ruch**, *Davenport*, Court Attendant/Clerical; **Paulette Wisely**, *Davenport*, Judicial Clerk.

District 8: **Daniel Kitchen**, *Washington*, Magistrate.

New Justice Sworn In



David S. Wiggins was sworn in November 7, 2003, by Governor Tom Vilsack. Our newest Supreme Court justice joined the Court following the retirement of Justice Linda Neuman.

Iowa Court Improvement Project Update

by Gail Barber

The Iowa Supreme Court Select Committee -To Review State Court Practices in Child Welfare Matters, better known as the Iowa Court Improvement Project, has been notified of refunding through 2006. The Iowa Court Improvement Project began in 1995 as a federally funded project sponsored under the Omnibus Budget Reconciliation Act of 1993, also known as the Family Preservation and Support Act. This grant was awarded to the Supreme Court of Iowa to improve the quality and timeliness of juvenile court disposition of abuse, neglect, foster care, and adoption cases.

The Iowa Supreme Court appointed the Iowa Supreme Court Select Committee to Review State Court Practices in Child Welfare Matters to oversee Iowa's court improvement project. This committee, appointed by the Supreme Court, is a panel of 13 professionals and volunteers from across the state. Members of the Judicial Branch serving include: **Co-chair Judge Gayle Vogel**, Court of Appeals; **Co-chair Judge William Owens**, Associate Juvenile Judge, Eighth Judicial District; **Judge Connie Cohen**, Associate Juvenile Judge, Fifth Judicial District; **Chief Judge John Nahra**, Seventh Judicial District; and **Beth Baldwin**, Fifth Judicial District Court Administrator. Judge Owens and Beth Baldwin are new members to the committee.

Other members are: **George Boykin**, Woodbury County Board of Supervisors; **Jerry Foxhoven**, Executive Director, Child Advocacy Board; **Roberta Megel**, State Public Defender, Pottawattamie County; **Mary Nelson**, Division Chief, Department of Human Services; **Kim Schmett**, Executive Director, Iowa Coalition for Children and Family Services in Iowa; and **Lynhon Stout**, Executive Director, Iowa Foster and Adoptive Parents Association. A full-time director, **Gail Barber**, is responsible for administration of the project.

Co-chaired by Judge Gayle Vogel and former co-chair, Judge Stephen Clarke, the Oversight Committee participated in the recent development of a strategic plan for 2003-2005, as part of grant requirements. The priorities identified during this planning session are:

1. The Role of the Court

Review role of Juvenile Court in changing environment of child welfare to assure the best interest of the child is served through court process.

2. Reassessment

Based on the original assessment done in 1995-6, assess progress Court Improvement Project and courts have made in improving the court process. One county in each judicial district will be reviewed for progress.

3. Best Practice and Compliance

A. Review court related issues of CFSR, including timely notice and opportunity to be heard for foster parents, re-entry into foster care, ICWA, model court orders.

B. Identify and distribute information about best practices and courts that achieve better than the national and state standards.

C. Gather and share information of successful models of timeliness, case management, and consistency of orders and process.


4. Quality of Representation

Develop Task Force to review issues of roles, responsibilities compensation and continuing legal education units for attorneys practicing in Juvenile Court.

5. Technology and Data

A. Develop Data Resources Council – an Ad Hoc Committee focusing on development of data sharing necessary for judges to remain timely and informed on child welfare cases.

B. Use data to inform regarding timeliness and improved practices.

C. Develop recommendations to improve data tracking system to monitor compliance and to improve use of technology for case management. 

Court Recognized in Child and Family Services Review Report

by Gail Barber

The federal Child and Family Service Review, which occurred in May 2003, was a comprehensive and valuable assessment of a state's child protection/child welfare system. The review:

- focused on the key outcomes of safety, permanency and child and family well-being
- assessed systemic factors identified as critical to achieving positive outcomes for children and families services by the child welfare system
- incorporated a statewide self-assessment, data on outcomes, in-depth examination of a small sample of cases and stakeholder interviews

Primarily a review of the Department of Human Services, the review also focused on the responsibilities the court holds in child welfare cases. There are areas needing improvement system wide; however, the final report gave positive comment about the dedication of the judges who serve in juvenile court.

In part, the report said, "Information in the Statewide Assessment indicates that court reviews are held in a timely fashion and are effective. The Statewide Assessment also

notes that a strong Court Improvement Project that provides standardized training for judges and annual training for attorneys supports the consistency of reviews. Another factor identified in the Statewide Assessment as promoting consistent and timely reviews is the strong commitment by Juvenile Court Judges to their role in ensuring the safety and permanency for children in foster care. Several stakeholders suggested that the timeliness of hearings may be attributed to the fact that judges are very focused on child welfare issues and on permanency.

The federal reviewers noted in their exit interview that Iowa had the strongest showing of court involvement of any state thus far. Thanks to strong support from State Court Administration and the Chief Judges, court personnel were involved in the development of the statewide assessment, and participated in onsite interviews and focus groups. A special thanks goes to Judge William Joy, Fifth Judicial District, Judge John Mullen, Seventh Judicial District, and Gail Barber, Iowa Court Improvement Project Director, who served as onsite reviewers.



The Final Report Iowa Child and Family Services Review in its entirety can be viewed on the DHS website, <http://www.dhs.state.ia.us/publications.asp> and click on 10/15/03 Final Child and Family Service Review, [Final Report](#).



Judge Cohen Receives Judges Award of Merit

At its business meeting in December, the Iowa Judges Association honored Associate Juvenile Judge Constance Cohen, Des Moines, by awarding her the association's Award of Merit. The award is given to recognize a judge who has made extraordinary contributions to the Iowa Judges Association and who has been role model to new judges.

"Judge Cohen has the reputation as a hard-working, competent, and compassionate judge," said District Court Judge Dale Ruigh, who presented the award to Judge Cohen. "She is recognized as a national leader in juvenile court issues."

Judge Cohen joined the bench in 1994. In addition to her busy court schedule, she is actively involved in many local and national associations and programs. She is a member of the Blackstone Inn of Court as well as several state and local bar associations.

On the national level, Judge Cohen has been heavily involved in the

National Council of Juvenile and Family Court Judges. She served two terms on the Council's Board of Trustees. She has served as chair of the Council's Advisory Committee for the Permanency Planning Department, and a member of the Subcommittee on Health and Well Being of Infants, Toddlers, and preschoolers in the Juvenile and Family Court.

"Judge Cohen has used her national role to the distinct benefit of the Iowa judiciary," added Judge Ruigh. "She has obtained funding and

speakers for conferences and she keeps Iowa on the cutting edge regarding issues surrounding juvenile court and the welfare of children."

Judge Cohen chairs the Iowa Supreme Court Juvenile Court Officers Training Committee and is a member of the Court's Committee on State Court Improvement on Child Welfare Matters. She is also

chair of the Juvenile Court Committee of the Iowa Judges Association.

Judge Cohen always finds time for special law related projects. She helped organize Adoption Saturday, an annual event at the Polk County Courthouse that promotes and celebrates adoptions. She has been a speaker at the annual Polk County People's Law school. Judge Cohen also serves as a presenter for a monthly "brown bag" lunch program for juvenile court participants. She has also served as an adjunct professor for Drake University Law School.

Judge Cohen received both her undergraduate and law degrees from Drake University. Prior to her appointment to the bench she worked in the private practice of law, served as an assistant county attorney and assistant attorney general, she served as executive director of the Iowa County Attorneys Association and the prosecuting Attorneys Training Coordinator.



*Associate Juvenile Judge
Constance Cohen*



2004 Judicial Branch Legislative Program

Unlike previous years, the Judicial Branch is requesting a small number of Code changes this coming legislative session. Most of the changes focus on streamlining, eliminating, or clarifying procedures used by clerk of court offices. These changes make up the Judicial Branch's request for prefiled bills, a process that allows state agencies and departments to file bills with the legislature without having a legislator as a sponsor.

Departments must submit their bills to the legislative service bureau, which drafts them into bill form. Once a bill draft has been approved by the requesting agency it is filed with the Legislature and assigned to a committee.

The Judicial Branch request for 2004 includes the following Code changes:

- Amend section 633.31 to increase the fee for certification of change of title of real estate from \$10 to \$20 so that it mirrors the fee for certification of change of title in other types of actions.
- Increase the cap on the court enhanced collections fund, from \$4 million to \$6 million, which is earmarked for court technology programs. Presently most of the funds are used to cover regular operations, and the branch is seeking funds for new initiatives.

- Delete the use of the term "deputy" clerk, which is outdated.
- Clarify and reorganize all provisions of the Code concerning criminal surcharges, including the criminal penalty surcharge, the DARE surcharge, and the law enforcement surcharge to eliminate confusion and ensure uniform application.
- Raise the cap on the district associate judge formula, which is population based, and change the formula so that it includes other factors.
- Put a limit on the time individuals have to produce proof of their driver's license when they have been charged with failure to have it in their possession. Presently, the law allows a person to show proof of their license within a "reasonable time," which is a subjective standard and, therefore, susceptible to arbitrary application.
- Remove the court and the clerks from the processing of admissions of indigent patients to the state psychiatric hospital under Chapter 225. This practice has changed over time so that the counties typically deal directly with the state hospital. The legislature approved a similar change last session with regard to admissions to the state hospital under chapter 255.
- Eliminate the requirement that clerks maintain an index of corporate securities, information that the clerks receive from the state securi-

ties commissioner. The securities commissioner posts the list on the Internet.

- Remove the courts and clerks from the duty of processing parking violations. Although most cities process their tickets without court involvement, some cities still rely on the clerks' offices for this task. Clerks process about 20,000 tickets a year, but keep little of the revenue they generate. In the alternative the Court recommends changing the fees for parking tickets from two fees (\$1 and \$8) to one fee of \$10. This would eliminate confusion over the fees and be easier to administer. The fiscal impact would be nominal.
- Exempt the Judicial Branch (and the Legislature) from the state archives management law passed last session. The management of court records is addressed by the Code and court rules, and would eventually be further addressed with the implementation of EDMS.
- Authorize the chief judge of a district, rather than a majority of district judges, to appoint the chief juvenile court officer. This will improve management and accountability.

The Clerks' Association and the clerks management committee suggested many of the changes concerning clerks' procedures.



Awards Program

The deadline for submitting nominations for the Judicial Branch Awards program has been extended to January 9, 2004. Contact your District Court Administrator or Cheryl Thrailkill at the Supreme Court for nomination forms.



At age 84, Shirley Lindblom, retires after twenty-three years of work in the Woodbury County Clerk of Court office. She is pictured with Craig Jorgensen, Woodbury County Clerk of Court.



Charlene Peterson, newly appointed Clerk of Court for Plymouth and Sioux counties is pictured with Craig Jorgensen, Woodbury County Clerk of Court. Charlene has worked for the Judicial Branch since 1969, serving as a deputy in the Woodbury County Clerk Office and later as a supervisor. Her grandfather, Henry Kruger, served as clerk of Municipal Court in Sioux City.

Schoenthaler Named Chief Judge of District Seven

The Iowa Supreme Court recently announced the appointment of District Court Judge David E. Schoenthaler, Bettendorf, as chief judge of the Seventh Judicial District. The Seventh Judicial District consists of Cedar, Clinton, Jackson, Muscatine and Scott Counties. Judge Schoenthaler assumes his duties January 1, 2004, succeeding Chief Judge John Nahra who declined reappointment after serving six years in the office.

Said Judge Schoenthaler "I would like to recognize Chief Judge Nahra for his stewardship of the district for the past six years. He has adeptly guided the 7th District through extremely tough budget times, while managing to compile a record of innovation."

Judge Schoenthaler, a native of Maquoketa, received both his undergraduate degree and his law degree from the University of Iowa. He worked in the private practice of law in Maquoketa for 28 years. Governor Terry Branstad appointed Schoenthaler to the district court in 1992.

In addition to judicial duties, a chief judge of a judicial district supervises all judicial officers and court employees serving within the district, supervises the administrative and judicial business in the district, sets the times and places of holding court, and designates presiding judges. The Seventh District is comprised of 17 full-time judicial officers, 13 part-time magistrates, and 147 support staff.

"I'm confident that by pulling together as a team we can overcome any challenges and achieve our common goal of providing justice in the 7th Judicial District," said Judge Schoenthaler.

court employees. I'm confident that by pulling together as a team we can overcome any challenges and achieve our common goal of providing justice in the 7th Judicial District," said Judge Schoenthaler.

The Chief Justice of the Iowa Supreme Court appoints the chief judge of each district, subject to the approval of the entire Supreme Court.



District Court Judge David E. Schoenthaler

Supreme Court Preparing New Rules and Policies on Court Interpreters

by John Goerdt, Judicial Branch Planner

Like many other states, over the past decade Iowa experienced a significant increase in residents who do not speak English. As a consequence, the courts have faced increasing demands for court interpreters. As demand for interpreters has increased, so have concerns about the quality of court interpreter services. Currently, the Iowa judicial branch has no education or training requirements for court interpreters. High quality interpreters are essential to ensuring that justice is served in the court system. In criminal cases, for example, where inaccurate interpretation can introduce “doubt”—and the state has the burden to prove guilt beyond a reasonable doubt—the quality of the interpreter can potentially determine whether a defendant goes to prison or gets deported from the U.S.

In October 2001, the Iowa Supreme Court’s Advisory Committee on Court Interpreter Policies issued a report with an array of recommendation for improving the quality and administration of court interpreter services in Iowa. Despite the financial difficulties faced by the judicial branch in the past few years, the Supreme Court has decided to move forward with implementation of the advisory committee’s recommendations. If the development and approval

process move forward as expected the new rules will be effective on November 1, 2004.

The following are three key components of the new Court Rules currently under consideration by the Supreme Court:

1. Code of Professional Conduct for Court Interpreters

A new chapter 15 of the Iowa Court Rules will set forth a Code of Professional Conduct for Court Interpreters. The new Code of Conduct is essential because few language interpreters in Iowa have had professional interpreter training. Most do not understand some of the basic requirements of language interpreters in courts. For example, interpreters must:

- ◆ Accurately interpret what is said without adding or subtracting any content, even if the statement is offensive or inaccurate.
- ◆ Avoid any appearance of bias or conflict of interest, which can arise, for example, by being related to—or being friends with—someone involved in the litigation.
- ◆ Keep confidential any information obtained in the course of interpreting regarding the client or the case.
- ◆ Refrain from offering opinions or advice to the client regarding actions involved in the case (i.e., no legal advice).

- ◆ Refrain from commenting publicly about any aspect of a case in which the interpreter is involved.

Through 10 Canons and associated commentary, the Code of Professional Conduct for Court Interpreters will educate interpreters about the basic requirements of their profession and thereby improve the quality of court interpreter services in Iowa. The Code of Conduct also will play a key role in the steps required for interpreters to be listed on the statewide “roster of court interpreters.”

2. Requirements for interpreters to be listed on the statewide “Roster of Court Interpreters”

To encourage interpreters to obtain at least some basic training, the Supreme Court plans to create a “roster of court interpreters” and require judges to appoint an interpreter who is listed on the roster, if one is reasonably available. There will be three basic requirements for being listed on the statewide roster:

1. Evidence of competency in both English and a second oral language or sign language.
2. Passing a test on the Code of Professional Conduct for Court Interpreters.
3. Completing the “Court Interpreter Orientation Workshop,” a

Court interpreters

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1.5-day course to be developed by the state court administrator's office. (Passing the test on the Code of Conduct will be required for admission to the orientation workshop.)

The orientation workshop will educate interpreters about the legal process, common legal terminology, the different skills involved in concurrent and simultaneous interpretation, and other issues on interpreting in the courtroom. The state court administrator will work with other appropriate state agencies (e.g., the Bureau of Refugee Affairs, the Division on Latino Affairs) to develop the orientation program and begin offering it by May 2004.

Interpreters who have fulfilled all three of these requirements will be listed on the statewide roster of court interpreters and will be given preference in the appointment process over interpreters who are not on the statewide roster. (Note: All sign language interpreters will have to pass the exam on the Code of Professional Conduct for Court Interpreters, and all except those who hold a "specialist certificate: legal" (SC:L) from the National Testing System of the Registry of Interpreters for the Deaf will have to complete the Court Interpreter Orientation Workshop.)

3. Requirements in the appointment of court interpreters

As the new rules are currently crafted, courts must give preference to a certified interpreter over a non-certified interpreter; and an interpreter on the roster is preferred over one that is not on the roster. Judges will be required to appoint a certified court interpreter if one is reasonably available. A certified interpreter is one who has passed a court interpreter certification exam offered by the federal court system, a state court system that is a member of the National Consortium for State Court Interpreter Certification, or the Iowa judicial branch. (Note: The Iowa judicial branch plans to begin offering an interpreter certification exam in Spanish possibly within the next 18 months). Judges will have substantial flexibility in determining "reasonable availability." They can consider "all relevant circumstances," including the nature and length of the proceeding, time restrictions for completing the proceeding, costs to the parties, and any agreement between the parties that is consistent with the rules.

If a certified interpreter is not reasonably available, a judge must appoint a non-certified interpreter who is listed on the roster of court interpreters. If a non-certified interpreter from the roster is not reasonably available, the judge may

appoint a competent interpreter who is not on the roster. Interpreters obtained through the "Language Line" service currently used by many courts in Iowa would fall into this category.

These changes will constitute an important first step toward improving the quality and professionalism of court interpreters in Iowa's courts.



For more information about the proposed rules and policies pertaining to court interpreters contact John Goerd, Judicial Branch Planner, john.a.goerd@jb.state.ia.us

